

**CITY OF COLUMBIA CITY COUNCIL  
SPECIAL CALLED MEETING MINUTES  
SEPTEMBER 18, 2013 – 6:00 P.M.  
EAU CLAIRE PRINT BUILDING  
3907 ENSOR AVENUE**



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The Columbia City Council conducted a Special Called Meeting on Wednesday, September 18, 2013 at the Eau Claire Print Building located at 3907 Ensor Avenue, Columbia, South Carolina. The Honorable Stephen K. Benjamin called the meeting to order at 6:28 p.m. and the following members of Council were present: The Honorable Sam Davis, The Honorable Tameika Isaac Devine, The Honorable Leona K. Plough, The Honorable Brian DeQuincey Newman, The Honorable Cameron A. Runyan and The Honorable Moe Baddourah. Also present were Ms. Teresa B. Wilson, City Manager and Ms. Erika D. Moore, City Clerk. This meeting was advertised in accordance with the Freedom of Information Act.

**ORDINANCE – SECOND READING**

Ordinance No.: 2013-111 (Revised) – An Ordinance to Set a Special Election on the Question of Changing the Form of Government from Council-Manager to Mayor-Council – *First reading approval was given on September 11, 2013. Approved on second reading by a vote of four (4) to three (3), subject to setting a special election on December 3, 2013, if the City receives a certified petition. Voting aye were Mr. Baddourah, Ms. Plough, Ms. Devine and Mr. Davis. Voting nay were Mr. Runyan, Mr. Newman and Mayor Benjamin.*

A motion was made by Mr. Runyan to give first reading approval to Ordinance No.: 2013-111 – An Ordinance to Set a Special Election on the Question of Changing the Form of Government from Council-Manager to Mayor-Council.

Mr. Newman seconded the motion.

Mr. Kenneth E. Gaines, Esq., City Attorney presented State Statute Chapter 7. *General Structure, Organization, Powers, Functions and Responsibilities of all Municipalities*; State Statute Chapter 9. *Mayor-Council Form of Government*; State Statute Chapter 13. *Council-Manager Form of Government*; Article VI. *Officers*, Section 8. *Suspension and prosecution of officers accused of crime*; an outline of the powers of the mayor, council and manager under the three (3) forms of government; and a proposed organizational chart under the Mayor-Council form of government.

Mayor Benjamin outlined §5-7-200 and §5-7-210. He said you don't have to wait four (4) years to remove a Mayor.

Councilor Devine said there is no recall provision for the citizens. She recalled that Mr. Runyan stated on last night that there is a provision for removal.

Mayor Benjamin clarified that there is no recall provision for any of us under state law, even under this form of government. He said the City Attorney advised the members of Council on how to take up certain matters. He said we thought it prudent that those discussions be had in public, not in Executive Session, so we will waive attorney-client privilege.

Councilor Davis stated for the record that he just returned from Charleston on business and his son had a seizure today. He noted that he will be returning to Charleston tonight or in the morning.

Councilor Plough said the city's ethics policy allows citizens and employees to raise issues or file complaints online or with the City Manager. She stated that under a Mayor-Council form of government, those potential ethics violations and issues would then go to the Mayor and the Mayor would deal with the staff and make periodic reports to the Council as he deems necessary.

Mr. Kenneth E. Gaines, Esq., City Attorney said that's correct, because that's a function of the manager at this point.

Upon a motion made by Mr. Runyan and seconded by Mr. Newman, Council voted unanimously to waive attorney-client privilege.

Mr. Kenneth E. Gaines, Esq., City Attorney said the ordinance calls for a special election. He distributed copies of the revised ordinance. He explained that the original ordinance simply provided for the Council to call for a special election on November 5<sup>th</sup> on the question as to the change in the form of government, but since we do not have the certified petition delivered to the Municipal Council and if it were to come in tomorrow, we could make the absentee ballot deadline by having that question put on the ballot by Friday. He explained that a contingency is built into the amended ordinance that says the ordinance shall not become effective unless a petition executed by 15% of qualified electors and certified by the Richland County Election Commission is presented to the Columbia City Council for a special election to change the form of government on or before Thursday, September 19, 2013. He further explained that if you pass this ordinance tonight and a certified petition is delivered tomorrow, this ordinance would take effect, but if you do not have a certified petition presented on or before September 19, 2013, this ordinance shall become effective on September 19, 2013. He said if you pass this ordinance but you don't get a certified petition, you will still have an election on November 5, 2013. He offered this as a possible amendment to be adopted by Council.

Mayor Benjamin sought clarification on Section 4.

Councilor Devine asked why Mr. Gaines felt that the language was necessary.

Councilor Davis questioned the intent.

Mr. Kenneth E. Gaines, Esq., City Attorney said he wasn't sure if Council was depending on a certified petition or a simple vote. He said he was trying to cover the bases to make sure there is an election on November 5<sup>th</sup>. He said if this ordinance is not passed tonight and you receive a certified petition tomorrow, you cannot have an election until 30 days later than the receipt of the petition; you would have a special election between 30 and 90 days; under this ordinance, if the petition is received tomorrow, we are within the 30 and 90 day requirements.

Mayor Benjamin recited Section 4.

Councilor Devine suggested that the ordinance simply state that it will be effective on Thursday, September 19<sup>th</sup>.

Councilor Davis said the first option puts the weight on certification. He said the ballot certification may pose an issue.

Mr. Kenneth E. Gaines, Esq., City Attorney said he is trying to avoid the special election by building in a contingency.

Ms. Devine made a substitute motion that if the City receives a certified petition a special election will be held on December 3, 2013.

Ms. Plaugh seconded the motion.

Mr. Kenneth E. Gaines, Esq., City Attorney advised Council that if the ordinance passes, an implementation date will be needed. He reviewed the powers and responsibilities of the mayor, council and the city manager in each form of government. He explained that under the mayor-council form of government, the members of city council and the mayor all retain their current legislative powers that exist under the council-manager form of government. He said it would take a legislative act of Council to privatize any services. He said the city manager statute separates the legislative powers of the council and the administrative powers of the manager; it is clearly delineated in the statute; and those are not contained in any other statute. He said that the council still establishes departments; prescribes functions; investigates departments; appoints the city attorney, the clerk and judges; elects a mayor pro-tem; adopts a balanced budget; amends the budget; adopts policy; authorizes bonds; adopts plats and the official map of the city; provides for an annual audit; adopts rules of procedure; exercises general police powers; appoints boards and commissions; and all the powers, duties, functions and responsibilities of the municipality under §5-7-10. He stated that the mayor under the mayor-council form of government retains his or her statutory legislative authority. He explained that when you change the form of government, the mayor assumes the operation and administration of the city; the mayor is over all departments; and if the council hires an administrator, the mayor is the only one who can direct that administrator. He noted that if we change to the mayor-council form of government, the entire city code will need to be changed to reflect the duties of the mayor along with the employee handbook, job descriptions and other directives and policies to the manager would need to be changed to the mayor.

Councilor Plaugh asked that Mr. Gaines provide a legal opinion to Council that outlines the sections of the state code that reference how the city manager's duties become that of the mayor even though they are not included in the mayor-council form of government portion of the state code. She noted that the council responsibilities that are listed under the council-manager form of government also get lifted over and put under the mayor-council form of government.

Mr. Kenneth E. Gaines, Esq., City Attorney said yes, those are your legislative duties.

Councilor Plaugh asked Mr. Gaines to specify which duties aren't lifted over. She asked where in the statute Mr. Gaines is vested to give that legal opinion.

Mr. Kenneth E. Gaines, Esq., City Attorney said the legal opinion is that the mayor exercises all of the duties in Chapters 1 through 17 and because of the unique nature of the council-manager form of government it appears that the legislature wanted to clearly delineate those specific duties.

Councilor Plaugh asked if there are any existing opinions that verify this.

Mr. Kenneth E. Gaines, Esq., City Attorney said he hadn't seen one, but this is the way it's done in other places that operate under the mayor-council form of government and the Municipal Association's handout also indicates that.

Councilor Plaugh asked how that contrasts with the council responsibilities. She said it is strange that you can pick up another section of code and apply it elsewhere.

Mr. Kenneth E. Gaines, Esq., City Attorney said under the council form of government, the council does both legislative and administrative duties. He said you still have those duties; it bleeds over.

Councilor Davis said the model separates the administrative and legislative responsibilities. He asked Mr. Gaines to be more precise when explaining the specifics for the legislative branch and the administrative branch as he continues to move forward with the explanation.

Councilor Plaugh said Mr. Gaines' legal opinion makes her pause, because under the council-manager form it says that council "shall" establish other administrative departments and assign and distribute work, but under the mayor-council form of government, it says we "may". She asked which is correct, shall or may.

Mr. Kenneth E. Gaines, Esq., City Attorney said you would apply the one under the statute; you wouldn't bleed it over. He said you must have the ability to operate as a government.

Councilor Plaugh reiterated her request for a legal opinion on that matter.

Mayor Benjamin referenced §5-9-10. Applicability of Chapter 7, which reads as follows: *Except as specifically provided for in this chapter, the structure, organization, powers, duties, functions and responsibilities of municipal government under the mayor-council form shall be as prescribed in Chapter 7.*

Councilor Devine said the questions they received from citizens are more practical such as who a citizen would call for assistance.

Mr. Kenneth E. Gaines, Esq., City Attorney said the administrator is hired by council to assist the mayor and can be fired by council.

Councilor Devine said the administrator would work solely for the mayor. She asked if there is provision for the mayor to allow that administrator to be a direct contact for councilmembers with constituent concerns.

Mr. Kenneth E. Gaines, Esq., City Attorney said he doesn't think it would be a problem, but you couldn't direct.

Councilor Devine said the Mayor has made it clear that they can't direct, but they currently contact the City Manager to address constituent concerns. She asked if this will be acceptable under the mayor-council form of government. She asked if there would be implications for councilmembers if they couldn't contact the mayor directly. She asked if the mayor has the authority to allow council members to contact the city administrator to get constituent concerns resolved. She said everyone needs to be clear on what councilmembers can do and what ability they would have to get constituent concerns resolved. She asked if the establishment of departments and functions would continue to be the role of council under the mayor-council form of government.

Mr. Kenneth E. Gaines, Esq., City Attorney clarified that "may" is permissive and "shall" grants authority. He said under Chapter 9. Mayor-Council Form of Government a responsibility of the mayor is to *insure that all laws, provisions of Chapters 1 through 17 and ordinances of the council, subject to enforcement by him or officers subject to his discretion and supervision, are faithfully executed.*

Mayor Benjamin added that if the mayor doesn't, he's subject to removal.

Councilor Devine said the departments are still a function of council. She asked if the mayor has a desire to consolidate, eliminate or create any departments would that come as a request to council for approval.

Mr. Kenneth E. Gaines, Esq., City Attorney said yes and referenced §5-9-40, noting that it is permissive.

Councilor Devine also asked if staff will continue to have grievance procedures and if the grievance committee is appointed by the mayor or council.

Mr. Kenneth E. Gaines, Esq., City Attorney said the mayor would appoint that committee if the manager currently appoints them.

Councilor Devine asked if the employees are subject to being hired and fired by the mayor.

Mr. Kenneth E. Gaines, Esq., City Attorney said yes; they are at-will employees.

Councilor Baddourah asked if the mayor would be able to overrule decisions that a councilmember makes in regards to a neighborhood request.

Mr. Kenneth E. Gaines, Esq., City Attorney said the mayor would direct.

Councilor Baddourah said that a councilmember would not have good representation of his council district, because the strong mayor can overrule the councilmember or an administrator.

Mr. Kenneth E. Gaines, Esq., City Attorney said he is not prepared to address that.

Mayor Benjamin asked who hires the mayor under the mayor-council form of government.

Mr. Kenneth E. Gaines, Esq., City Attorney said the voters. In response to Ms. Plough's question from last night, he noted that Mayor Riley stands at the podium with Council around him in a semi-circle while he conducts the meetings.

▪ **Council opened the meeting for public comments at 7:15 p.m.**

Ms. Christie Savage said she has been trying to reach her councilperson for a week to tell him what's on her mind; to tell him what the community feels; and to make sure that he keeps his commitment to our community. She said there are at least three (3) attorneys involved with the process and you have the advice of a paid fulltime attorney, but you do not know what you are doing; you do not understand the full ramifications of what's being proposed, yet you want to rush the community to do this by November 5<sup>th</sup>. She said you cannot concisely say what the mayor can do and you need to take the time to do that. She insisted that a process needs to be established for the general community and the business community in terms of how this is going to happen. She is not opposed to voting on this, but she is opposed to voting on November 5<sup>th</sup>. She said we need a forum for questions to be answered. She urged Mr. Davis to take his time and she reminded him of the commitment made to District One.

Ms. Emily Cooper said she received a call from Rev. Rudy Barnes who served as a councilmember under Kirkman Finlay and a strong mayor form of government. He told her that if we have a strong mayor and it's not the right one, the person who can hire and fire opens the door for corruption. She approved of Ms. Savage's comments, noting that too many questions have been asked tonight that they haven't thought of. She said you have a responsibility; don't blow it.

Councilor Devine clarified that it was a council-manager form of government and that she has a lot of people say that you don't need a strong mayor form of government to have a strong mayor and strong leadership; Kirkman Finlay was a great example of that.

Councilor Plaugh said we have a strong mayor right now.

Councilor Devine concurred.

Ms. Eady Roe Willard, Republican Party Chair said she has been one of the observers at the Richland County Election Commission and their staff has done a wonderful job going over the petitions bit by bit. She said this is not a partisan issue and she is an alternative to our Attorney General to show that people in both parties can disagree. She said this is not about today's mayor; this is about the type of government we will have in the next century. She said we had this form of government 50 years ago and she would like to know why we switched it. She expressed her disappointment in not being able to view the ordinance online last week. She said the average voter doesn't talk about this all the time; this is not the first thing they think about every day. She asked Council to give the voters an extra month to become informed about this.

Mr. Robert Johnson said it may be a good idea to do this; however, as he talked with the city attorney he was hoping that someone who has been a strong mayor could explain the ins and outs of it. He said that some of his questions have been answered, but he needs more information. He noted that even though the Affordable Healthcare Act has been a law since March 2010, our state representatives have not tried to explain the good points of the plan to us. He hopes there will be a massive effort to educate the public. He said if he was voting at this moment, he would vote for a strong mayor.

Ms. Karen Weinkel said not planning properly can sometimes lead to poor results. She expressed concerns about providing short notice for the first meeting and then meeting in such a small venue. She asked for more notice and more information on the two options.

Ms. Minnie Wilson-Bivins said we need a good explainer in chief and Council needs to use the microphones for the audience to hear and understand what is being said. She said they thought they selected top notch people and if you trust us with that duty you can trust us with handling this. She said more information should be provided. She said a strong mayor should have checks and balances just like a city manager and city council. She said there may not be enough town hall meetings in each district. She said this is about a fulltime job and when a woman is elected as the next mayor she should not have to worry about providing for her family. She said we are not Charleston or Charlotte, but we are the capital and we should be better.

Mr. Oliver Francis said we need to look in the mirror and decide if we want to stay the same or change. He said he voted for four people on Council and earned the right to vote on the change in government. He said some people don't know what the council-manager form of government is. He said it's all about power. He is concerned about Columbia. He said neighborhood associations don't want to give up their power. He said we should hold the mayor accountable if something happens in Columbia; we have seven chiefs and

no Indians. He said we need to go forward; we are procrastinating about nothing. He asked for the opportunity for the voters to decide; as the capital of South Carolina, we need to be the trendsetters. He said we've had five city managers since 2001 and ten police chiefs. He urged Council to do the right thing.

Mr. Rusty DePass said this whole process has been very, very poorly handled. He said the mayor is a strong mayor and he deserves the lion's share of the credit for this being poorly handled. He said that seven people have come together from various places across the City of Columbia in order to reach consensus and run the city and it has worked pretty well. He said Mayor Finlay was a strong mayor and he didn't need to change the form of government to get things done. He said this Council has incurred \$850 million worth of obligations for the taxpayers for the City of Columbia this year. He said you are on the wrong track if you think that changing the form of government is going to solve your problems.

Mr. Joseph Azar asked if the ordinance was changed from last week. He said last week's ordinance said you would approve this election if the petitions came through. He asked if this week's ordinance says that you will approve the vote whether the petitions come through or not.

Mayor Benjamin said that's not what the ordinance from last week said.

Mr. Joseph Azar said last week Council voted that if the petitions came through the referendum would be approved. He asked what the motion on the floor is.

Mayor Benjamin said the ordinance before us is to hold the referendum on November 5<sup>th</sup>. He explained that the city attorney recommended an amendment that has not been accepted by Council and Ms. Devine has a motion on the floor to hold an election on December 3<sup>rd</sup>.

Councilor Devine clarified that her motion is to hold a special election on December 3<sup>rd</sup> upon receipt of a verified petition.

Mr. Joseph Azar said you want this referendum on November 5<sup>th</sup> in disregard to what you had last week. He asked how can citizens understand it if you don't. He said more time is needed for us to do it, especially if the city code has to be changed. He said if the mayor is to be paid \$250,000 as a fulltime mayor, then why would we need to hire an administrator. He said if you want to do it correctly and give the people time to understand what's going on and save time and money for the citizens then have the general election and the referendum in 2014 when the governor is up for election. He noted that Mayor Finlay came in after the form of government was changed and he worked under the system we had. He said the citizens got rid of the system that is being proposed, because of the corruption and cronyism.

Mr. Dean Slade stated that we really need a chief executive officer and right now that role fits with the city manager. He said that's not the right place for a chief executive officer to sit. He said the city is set up much like a nonprofit corporation. He said a

visionary is needed to bring Columbia to where we want it to be in the next 10, 15, 20 years. He said the population is expected to increase by 450,000 people in this region. He said this can't be done part time or through a committee, because everything moves so fast. He said if you are not thinking ahead then you won't be able to make the needed progress to remain competitive; running a city is like running a business. He said we can't say that we have a strong mayor when the city manager is the chief executive officer. He said the role needs to be properly defined and embodied in an elected official that we can hold accountable.

Ms. Diane Wiley said \$17,000 is not very much money for a whole year; he's an on-call mayor. She said all of you are doing a good job and he is strong. She said something has to be done. She said (zip codes) 29203 and 29204 are being neglected. She said we have real serious problems with liquor stores, mom and pop stores and gangs. She urged everyone to support our mayor and give him a chance like you did the others ones in the past. She said we as a capital should be proud of our city and not comparing it to other places. She urged Council to go behind closed doors and fuss. She said we need a change.

Ms. Ellen Cooper thanked Council for waiving privilege so that Mr. Gaines could further confuse her tonight. She said this has nothing to do with the mayor or the upcoming election; she always wanted to separate the two issues by having an election for mayor and councilmembers and another election on the form of government. She said that Mayor Benjamin has worked hard for the City of Columbia and he has certainly been supportive of our neighborhoods. According to the Robert Rules of Order, she said that Council needs to vote on the substitute motion and if it fails then they would vote on Mr. Runyan's motion. She urged Council to vote for the substitute motion so that the issues can be separated and we can have more time to be educated on what this really is.

Mr. Willie Henry said he is not in favor with changing the form of government, because the mayor should not have the power to hire and fire a person; that's a seed of corruption. He said city employees should not be beholden to the mayor for their jobs; that should be done by a third party. He said we don't know anything about what a strong mayor is. He urged Council to not rush this election. He said he hasn't been convinced that changing the form of government is better for Columbia. He said if the council and mayor work together, we can accomplish some things without changing the form of government.

Ms. Elaine Cooper said she lived through a strong mayor in Chicago. She said we don't have term limits on our mayor. She said she never gets a return call or email from Mayor Benjamin or Councilman Newman. She said she hears from other strong city councilmembers like Ms. Devine, Ms. Plough, Mr. Baddourah, Mr. Davis and Mr. Runyan. She said we are desperate in Columbia for some form of checks and balances on each and every issue.

Mr. Robert Johnson urged everyone to get a copy of the League of Women Voters brochure on the forms of government.

Ms. Martha Roblee, President of the League of Women Voters of the Columbia Area said they prepared the brochure. She announced that they are holding two information sessions on the forms of government on October 3<sup>rd</sup> and 17<sup>th</sup> at 5:30 p.m. at the USC Law Auditorium.

Ms. Henrietta Baskins, Executive Director of the Greater Columbia Community Relations Council said they are a neutral party and on September 25, 2013 at 5:30 p.m. the organization will hold a forum presenting both sides of this issue at the Eau Claire Print Building. She said the forum is not to decide whether it should or should not be on the ballot.

- **Council closed the public comment portion at 8:01 p.m.**

Councilor Plough said the substitute motion doesn't include an implementation date. She asked Mr. Gaines to elaborate on what needs to be in place for it to be effective.

Mr. Kenneth E. Gaines, Esq., City Attorney said you have to amend the city code, employee handbook, policies or directives currently directed at the city manager, and conduct a public hearing to adopt a budget amendment to accommodate the salary. He suggested an implementation date of July 1, 2014 when the new budget begins. He said there may be other things that need to be changed.

Councilor Plough said those things need to be done, because we are putting in place the proper checks and balances that people would expect. She said the challenge is that we are dealing with the mayor who has administrative and legislative roles.

Mr. Kenneth E. Gaines, Esq., City Attorney said the manager's duties are scattered throughout the code. He said you will substitute the duties of the manager with the mayor as specified by the code.

Councilor Devine said she proposed the substitute motion, because the signatures have not been verified; we are supposed to receive that tomorrow, but we may not. She said the ordinance is reconsidering the ordinance we did a month ago. She said we are setting an election without a petition process. She said the main reason she suggested December 3<sup>rd</sup> is because she recognizes that regardless of how the signatures were gathered, we will have to put it on the ballot if we get verified signatures. She has heard from a lot of people who don't know what they are voting on. She said it's irresponsible to rush this. She acknowledged the need to save money, but to ensure the integrity of our democracy it's worth it to spend more money to have another election where people have an opportunity to really know what they are voting on and an opportunity to ask their questions. She said we haven't had the forums and having more time within the timeframe of the statute is prudent. She said we are not stopping anyone from voting; we are allowing the citizens the opportunity to exercise their God-given right to vote their conscience. She said it is incumbent upon us to make sure people are armed with the right information when they go to the polls. She is concerned because we continue to have questions that can't be answered. She said there are the legal aspects of it, but what does it mean in practice. She insisted that this is not about power; it's about equal

representation. She respectfully asked her colleagues to consider the amendment; it gets us to where we need to be; it gets the citizens voting, but there is no harm in giving citizens 30 more days to ask the right questions.

Councilor Baddourah asked if the substitute motion is contingent upon the receipt of a certified petition.

Councilor Devine said yes, whenever the certified petition is received.

Councilor Baddourah asked if we will receive the certified petition soon.

Mr. Kenneth E. Gaines, Esq., City Attorney said we don't know that.

Councilor Davis said he always had respect for the petition process; they fought for the 4-2-1 Plan and they went through the process. He reiterated his position of not having the right to deny anyone the right to vote. He expressed concerns, because the position he expressed was based on the certification of the signatures; that's the credibility that he stands on. He said everybody knows where he stands. He said the mayor is strong and he is a visionary. He said when you visit Charleston, you have to go through some neighborhoods and that's why he takes the position of not supporting the strong mayor form of government. He said there is a commitment to allow the people to vote. He said tantamount tonight is the verification of those numbers and discussions should include those things so that the people can make up their minds as to whether or not we need to entertain the question of changing the form of government. He said he can personally live with it being in November, December or January.

Councilor Plough said she really paused and thought here we are again, doing the city's business, doing it in an awkward way. She expressed concerns about doing things as a special called meeting. She said it is important to separate the election from the referendum and if we act before getting a certified petition we have preempted what our citizens have tried to do. She said through an aggressive effort, we encouraged citizens to know about what's going on. She said it's like taking a poll and not waiting for an outcome and that doesn't feel right to her. She said we need to know the outcome and Ms. Devine's motion to hold the election on December 3<sup>rd</sup> contingent upon waiting to see what happens with the certification of the petition makes sense. She made a friendly amendment to Ms. Devine's motion by inserting an effective date of July 1, 2014 to allow staff ample opportunity to prepare amendments to codes, handbooks and policies, which will all funnel back to City Council for approval.

Ms. Devine accepted the friendly amendment.

Mayor Benjamin asked the City Attorney what the Attorney General says about the effective date.

Mr. Kenneth E. Gaines, Esq., City Attorney reported that the Attorney General said you can pick a date of implementation if you pass it by ordinance; if it's in the petition you will have to comply with the date that's in the petition. He said there is no date of implementation in the petition; you can pick a date of implementation.

Mayor Benjamin said he has watched several of his colleagues vote time and time again to deny the citizens of Columbia the opportunity to be heard on this issue, regardless of their position. He said he speaks to people every single day who do not share his position on changing the form of government, but who feel very strongly that it's their right to make that decision and not this Council's right to make that decision. He said when we start talking about subverting the process of a petition drive that was launched in response to this Council's refusal to give people the right to vote; when we start talking about the God-given right to vote when we've acted accordingly for the last several years, he finds that interesting. He stated that last year, all but one member of this Council voted to change the city election date to November of odd numbered years for one simple reason, to increase voter turnout. He said working in concert with the League of Women Voters and others we knew that a government would be more responsible, accountable and better government overall, because more people would be involved in the process of improving their government. He said that's the reason we went to November; that's the reason we went to November in odd years, because we didn't want to get caught up in the politics of the day. He is afraid that some here want to effectively reverse that principle and that some want to suppress voter turnout. He said we should stand up for democracy; democracy votes in November and not when it wants to. He said we could have spent the last two months educating voters. He said by all indication, there's a sense here that the petition drive called on by the citizens and the business community was quite successful; we have been forced to this point. He said the truth is that Council has been discussing this debate for at least 20 years; we've had forums, debates, public discussions and hearings ad nauseam. He thinks that sometimes the questions are designed to delay and confuse you. He stated that 9 years ago the Columbia Commission on Restructuring and Government Reform held a series of public hearings across this city; in January 2010, Council voted unanimously to hold more public forums "to educate and communicate with the citizens of Columbia about the strong mayor form of government" at the request of Ms. Devine; over the past two years we've had multiple public discussions excluding tonight and the two separate forums Ms. Plough held in District Four; and Scott Slatton of the Municipal Association has given his presentation on the forms of government at least three (3) times since May of 2012. He said when Council considered this question last month, those who opposed it argued that 84 days was not enough time to educate the voters, but now several of those same opponents argue that 76 days is plenty of time to educate voters. He said we need to start educating voters here and now. He said if the city manager has the authority to do it now, then a mayor would have the authority to do it under the mayor-council form of government; the job description is spelled out in the statute. He said that council will continue to have the authority to make appointments to boards and commissions. He said that the mayor would draft the budget, but final approval must come from the council. He said council holds tax and bonding authority now and would continue to do so under the mayor-council form of government. He said neighborhoods do not select the city manager, but they take a very direct role in selecting a mayor. He said Council has the authority to remove the mayor or any member of

council under any of the three (3) forms of government pursuant to §5-7-200 and §5-7-210; the council decides if there are grounds to remove a mayor. He noted that the people have the right to remove the mayor once every four years; they have absolutely no authority to remove a city manager. He said this isn't a Chamber of Commerce or some faceless group representing this issue. He said his former boss and former democratic Governor Jim Hodges is co-chair of the effort along with former Attorney General Henry McMaster and former State Representative and NAACP leader Jim Felder, local author and educator Ashley Wilkerson, State Representative James Smith, Deacon Durham Carter, CCN President Dean Slade, Sabrina Odom as the Executive Director of the North Columbia Business Association, Heyward Bannister, Geraldine Carter, Ms. Minnie Bivins, Coach Oliver Francis, Evelyn Crosby, Jeff Dimmery, James Wiles, Bambi Gaddis, C. Carrol Heyward, Susie Heyward, Tiffany James, Brian Murrell, Molly Roe, Dr. John Stucker, Richland County oldest voter Ms. Danella Wilson, and 12,619 of her fellow city residents are saying let me vote and let me vote now; justice delayed is justice denied. He cited the number of citizens that signed the petition from each Council district: 3,753 voters from District One; 3,950 voters from District Two; 3,372 voters from District Three; and 1,545 voters from District Four. He insisted that these citizens are not from some special interest group; they are the people and we need to listen to them. He said someone suggested raising the salary to \$150,000 a year for a weak mayor under this form of government. He said this is not about money; it's about accountability and letting the people vote; it's about having an accountable form of government and hiring a chief executive officer who answers to the people of this city.

Councilor Davis asked if they can have further discussion on the validation process.

Ms. Teresa Wilson, City Manager said we called Richland County in an attempt to give you the clarity you need tonight and we've ascertained from Mr. Jackson that they are in a quality control process of the verification. She said she is not sure what all that entails. She added that Mr. Jackson asked that we be prepared in the morning to come and pick up information from him. She reported having attempted to find out what we will be picking up. She said that staff is prepared to have a very secure process in place to pick up whatever Mr. Jackson has for us.

Councilor Plaugh said she emailed the City Manager asking that Mr. Jackson be here tonight. She recalled that we made an effort to do that last week, but he was not available. She said tonight his is in training and could not be available.

Mayor Benjamin asked what type of clarity we are seeking from Mr. Jackson.

Councilor Plaugh said clarification on the validation process. She said this is a very important vote tonight that affects the whole approach on the city going forward.

Councilor Devine said the process doesn't matter, because as we vote tonight we do not have a certified petition. She asked if Council is comfortable with moving forward without a certified petition or is Council comfortable waiting on a certified petition. She said we are in the same position we were in last week.

Mayor Benjamin noted that a certified petition is the reaction to this Council's declination to give people the right to vote. He said if in fact there is an election as a result of the petition it is because the people have compelled you to have an election; not because you chose to do it, you've been forced to do it. He said we need to make the determination as we did last year when we set the general elections in November to try and maximize voter turnout; that's the day we should be setting this election for.

Councilor Devine acknowledged that we are here because of the petition; that's not a question. She said under the petition there is a window of time to put it on the ballot and the question is whether or not there needs to be a discussion and to be able to affirmatively answer questions that our citizens have about this issue. She agreed that we had plenty of time to discuss this, but when it was voted against last year the mayor did not ask for continued dialog on it. She said the mayor did not bring this up when Steve Gantt had a year left and we were looking for a new city manager; at that point we could have made the November 5<sup>th</sup> ballot. She said the Mayor gave this Council a one week notice to discuss this. She said if it was so important to be discussed, you or anyone else could have raised this. She recalled that on August 6<sup>th</sup> prior to National Night Out, as the last item on the agenda the Mayor asked for a meeting a week later to discuss the forms of government. She said time is not just our fault; it is your fault as well.

Mayor Benjamin recalled that a week later the Council summarily dismissed again the opportunity for citizens to have a right to vote and several weeks later the citizens turned in over 12,000 signatures. He said some who support moving this to December are hoping to suppress voter turnout. He is happy and confident that the people of Columbia will have an opportunity to act if you choose not to act on the original motion made by Mr. Runyan.

Councilor Runyan asked how many signatures were needed on the petition and how many were received. He recalled the previous arguments he heard when he and Mr. Baddourah sat in the council meetings as observers before joining council. He said they've heard time and time again that no one is interested in having a referendum. He asked what the threshold for interest is; what if there are only 10,000 certified signatures; what if only 2,500 people in each council district want to be heard on this. He asked if that constitutes no interest in having a referendum on this. He said we have an ethical and moral obligation to honor the will of the voters. He said we owe that to them and we owe them to do it on November 5<sup>th</sup> when we already have an election scheduled. He said we can discuss this in seven (7) weeks, understand it and then make an informed decision on this. He said there is clearly interest in having this question heard and we will have validation of that very shortly.

An unidentified individual in the audience asked if the election can be held in 2014.

Mayor Benjamin replied that if a petition is received, an election cannot be held in less than 30 days or more than 90 days.

Councilor Devine said the question for her is not a certain number of signatures or people saying there's interest. She said if this petition was truly generated by the citizens being given fair and adequate information that would be one thing, but she has received too many calls about how the petition was handled. She said it wasn't done in a manner that says this is what the citizens want us to talk about. She said the citizens want us to talk about how we are going to respond to the EPA consent decree; how we are going to fix ditches and pot holes; and how we are going to provide police protection. She said we have been here for several nights on this issue; that shows interest, but it's not high on the priority of moving forward. She said we have a legal responsibility to put this on the ballot once we receive a certified petition. She asked if we are going to answer these questions or continue to give rhetoric to people.

Councilor Davis asked when we will get the certification.

Mr. Kenneth E. Gaines, Esq., City Attorney said we don't know; they have been very tight lipped about the process.

Councilor Newman said he thought it was a simple question last week. He said we strayed away from the conversations last week and last night and we continue to stray away tonight. He said the problem with this conversation is that people are confused about what strong mayor is, because they are getting rhetoric from people on both sides of the argument that are trying to skew aspects of it and garner your support. He said the reality is that this is a very serious decision, but we are over complicating this decision by not providing general information about it. He would prefer spending more money on marketing this information through public relations or other options. He said he was questioned on this while campaigning in 2010 and 2012; this is the third time this discussion has come up; and he will be supporting a November 5<sup>th</sup> referendum. He said our electorate can understand the situation. He said the pamphlet provided by the League of Women Voters is excellent and his preference is to continue the discussion, continue to provide objective materials and move forward with a vote on this.

Councilor Davis contended that he has separated the two issues. He said he doesn't want to be perceived as denying anybody the right to vote and as much as he loves this city it doesn't sound good when you're being accused of doing that, especially when you've put in a little bit of sweat and tears at the feet of people who really had a vested interest in this city such as Matthew Perry, John Harper, Modjeska Simpkins, Attorney Lourie and everybody that has stepped forward to make contributions. He said serving has been a privilege for him; he knows where he stands; and he wants other people to tell him where they stand. He said he was perfectly clear why he took the position he took on the last vote with two contingencies: a petition and education.

Mayor Benjamin said instead of spending \$150,000 on a separate election, we could spend one-third of that and buy \$50,000 worth of media/television time to get the information out in addition to other wonderful educational efforts over the next month and a half. He said he will vote against the substitute motion.

Upon a substitute motion made by Ms. Devine and seconded by Ms. Plaugh, Council voted four (4) to three (3) to give second reading approval to revised Ordinance No.: 2013-111 – An Ordinance to Set a Special Election on the Question of Changing the Form of Government from Council-Manager to Mayor-Council, subject to setting a special election on December 3, 2013, if the City receives a certified petition. Voting aye were Mr. Baddourah, Ms. Plaugh, Ms. Devine and Mr. Davis. Voting nay were Mr. Runyan, Mr. Newman and Mayor Benjamin.

Upon a motion made by Mr. Newman and seconded by Mr. Baddourah, Council voted unanimously to adjourn the meeting at 9:01 p.m.

Respectfully submitted by:

Erika D. Moore  
City Clerk